

THE
C E C B R D

Printed by John Bowyer

1657. Oct. 28. 1657.

O F A S

Printed by John Bowyer

Famous ACTION upon the CASE.

I N

R Y T H M E.

Wherein Priscilla Moregrave, Widow, was the Plaintiff, and Roger Pricklove was the Defendant.

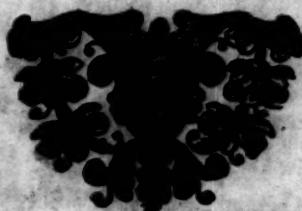
B E I N G

An ESSAY towards the Reformation of the LAW.

Offered to the Consideration of the Committee appointed for that Purpose in the Year 1657.

Written by some Man of the LAW, at a Time when he had little else to do.

And now Reprinted, with a PREFACE, for the Benefit of Students and Professors of the LAW in the present Age.



L O N D O N:

Printed for J. ROBERTS at the Oxford Arms in Warwick-lane. 1727.

(Price Sixpence.)

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Alexander Cockburn
of Boston

Estions ACTIO in the CASE

M A T H Y R

Wth certain Pictures Mortises, Mth when can I
Printly and Roger Pictorially make Oth (certain)

B E I N G

A n E S S A Y towards the Restoration of the F A W

Offered to the Corporation of the Commonwealth of Massachusetts
Purposed in the Year 1627.

Wth a short history had ad regular until is Wth Ath to all the laws of the Commonwealth of Massachusetts

What now Redounding with a P E T H A C for the benefit of Common
and Privileges of the F A W in the present age



L O M D O V :

Promised for Lth Roegth at the Ordinary year in
Wth Marchth 1627

(See signature)



P R E F A C E.



MITTLETON, the great Oracle of the Law, says, That it is one of the most honourable, laudable and profitable things in the Law to have the Science of well-pleading. But the usual Language and the Multitude of Technical Words made use of in pleadings, have given occasion to an ill-natured reflection, not only upon the Learned Tribe of Special Pleaders, but upon the Professors of Law in general; as if, like the Jewish Lawyers of old, they were desirous to take away the Key of Knowledge from others, and to keep that valuable part of Learning to themselves, and by certain invented Quirks and Conundrum's,

To render all the Avenues
To Truth, impervious and abstruse,
By making plain things, in debate
By art perplext, and intricate.

It was therefore the wisdom of our late Common-wealth, among other glorious Achievements, to wipe off this imputation, and it was then Enacted by a Publick Law, that all Pleadings, Writs and Process, &c. shou'd be in our Native tongue, and written in an honest legible hand, and not in any unknown Jargon, or that Popish ill-favoured Character, commonly called Court-hand. It was in those times that the following Record was translated and published, as an Essay towards this Reformation. That as every one was then duly qualified for a godly Soul-saving Preacher with very little abilities, so every man might, with as little difficulty or loss of time, set up for a Pettifogger, or an Operator in the Law, under one denomination or other, and learn

All Legal Mysteries to unriddle
As easily as thread a Needle.
To vere and tack and steer a Cause,
Against the weather-gage of Laws,

And

P R E F A C E.

And ring the Changes upon Cases
As plain as Noses upon faces.

Accordingly this Essay was very well received in those days, and administered great Consolation to those pious Reformers. And to recommend it to the present polite age, it will be sufficient to say, that it was then generally thought to have been translated by the Author of Hudibras, tho' the Criticks will be apt to judge otherwise from the old titling of it, which is here still preserved and handed down entire.

Whatever the illiterate part of Mankind may say of this piece, it cannot fail of meeting a good reception among the numerous practices and Well-wishers of the Law, especially those residing at Wapping and the Marshalsea, where there is every day occasion of such Presidents.

And surely the Modern Orator will have some reason from hence to retract his opinion, in his late declamation on the Eloquence of the English Bar; and will forbear to say hereafter, that our Law abounds with barbarous terms and Gothick Infusions, when he perceives by this little Specimen, that the most barbarous part of it, (as he may think) Pleadings to be, because he least understands them) is not only capable of a just translation, but even of the Beauties of poetry. And the Bookseller has the vanity to think, that this Piece being an original in its kind, may not be improper Company to bind up with the late famous Totness Address, and hopes it will not be unwelcome to an Age, which is so apt to turn every thing solid and serious into Raillery and Burlesque.

By all means, send me a copy.

As easily as needed As easily as needed
An Ideal Mycetes to numbers

A
R E C O R D
R I T H M E,
B E I N G

An ESSAY towards the *Reformation of the Law*,
offer'd to the Consideration of the Committee ap-
pointed for that purpose in the Year 1657.

*Written by some man of the LAW, at a time when he had little
else to do.*

London, ff.

BE it remembred now that formerly,
To witt last Term o'th' holy Trinitie,
Before the Keepers of the liberty
Of England, by the full authority
Of the long Parliament, at Westminster,
Priscilla Morecrave widow came, by her
Attorney M. B. and prefers,
I'th' Court of upper bench, a bill of hers,
Against one Roger Pricklove, who doth lye
A prisoner in the Marshalls Custody.
Et cætera, and 'tis upon a plea
Of trespass on the Case, Pledges there be
To prosecute the suit, to witt John Doe
And Richard Roe. And the said bill also
Doth follow in these very words to wit
In legal manner, London, scilicet.

Declaration.

Priscilla Morecrave Widow doth complain
 Of Roger Pricklove, who doth now remain,
 Prisoner to th' Marshall of the Marshalsey,
 Of the said Keepers of the Liberty,
 Of England by authority and power,
 Of Parliament, i'th' bench superiour,
 Before the same Keepers themselves that bee,
 For that (to wit) whereas the aforesaid shee
 Priscilla Morecrave, is a person just, honest, and
 faithful, one that never durst
 Give the least cause for to be thought unchaste,
 But hath lived ever modest, and was gracie,
 With godly education, and demurely,
 Behav'd her self; and all her life most purely,
 Hath with the zealous and precise consorted,
 And free from all uncleanness was reported,
 Who never was amongst the well affected,
 Stain'd with a Crime, or in the least suspected,
 But with the pious people of this Nation,
 Hath had good fame, credit, and reputation;
 By which good reputation, she hath gain'd
 Not only love, and favour, but obtain'd
 A plentiful estate, by which most freely
 She manag'd her Affairs; And that Ralph Seely
 One of the Assembly late at Westminster,
 A godly-Gospel preaching Minister,
 Was earnest suiter in the way of Mariage,
 To have her for his yoak fellow; his cariage,
 And his most Saint like loving humble speeches,
 Had her consent to all that he beseeches.
 And she agreed to give him all content,
 To wed him by the Act of Parliament.

Three times the Contract publisht, then their trust is
 That all shall be compleated by the Justice.
 But this said Roger all aforesaid knowing,
 Maliciously intending her undoing,
 To blast her reputation, and dishonour
 Her unstain'd Chastity; to cast upon her
 Infamous obloquy, to disrepute Her,
 And to deprive her of her foresaid Suiter;
 By breaking of the mariage was intended;
 To leave her to the world lost, and unfriended,
 In month September, day of the same Eleven,
 One Thousand six hundred fiftie seven,
 Of our Lords year, as by our computation,
 Our Common-wealth reckons from th'incarnation,
 At London in the parish of St. Mary
 Bow, in the ward of Cheap, he then contrary
 To truth most falsely and maliciously
 In hearing of right worthy Company,
 And honourable persons, Noble Lords,
 Did speak these false, and most reproachful words,
 To and of her the Plaintiff; that's to say,
 You are a pockie Whore, and at this day
 You have three Bastards living, which do dwell,
 Two in Pick-hatch, and one in Clarkenwell.
 By reason of which false malicious speaking
 Of the said Roger, to her great heart-breaking,
 The godly-gospel minister, her Suiter,
 Forbears his former suit, and for the future,
 Did make profession he would never take her,
 To be his Consort, but did quite forsake her;
 And all her friends with whom she had repute,
 Do now esteem her for a Prostitute;
 Whereby she is the worse, and damnifi'd,
 One thousand and five hundred pounds, beside,
 And thereupon she doth her suit produce,
 In the Upper Bench because of this abuse.

Imparlane.

Imparlace.

And now until this day, that is to say,
 On Monday three Weeks after Michaels day
 In this same Term, which very day untill
 Roger had leave t'emparle unto that Bill,
 And then to answer it; before the same
 Keepers, as well the said *Priscilla* came,
 I'th' Court of Upper Bench, at *Westminster*
 By that Attourney nam'd before, for her
 As the aforesaid *Roger*, who doth come
 By his Attourney, *A. B.*
 And doth defend the force and injurie,
 When, where *et cetera*, And faith that shee,
 The said *Priscilla*, ought not maintain, nor
 Have therupon her Suit against him, for
Protesting, not acknowledging, that shee
 Is half so honest as she'l seem to bee,
 Nor is her body, or her life so clear,
 Nor so unspotted, as shee would appear;
 Nor is shee of so chast a reputation,
 As is pretended by her Declaration.
Protesting also that the said *Ralph Seely*
 (Though oft together did both hee and shee lye)
 Nere meant to Marry her, but all his power
 Of love was quench'd in lesse than half an hour.
 Besides hee'd quite undo her, if he had,
 His learning was so small, his life so bad.

For Plea he saith that at the time, wherein
 Shee does suppose these scandalous words t'have bin
 Spoke by th'aforesaid *Roger*, shee the sayd
Priscilla was not Widow, Wife, nor Mayd,
 And though she pass'd for an unbroken virgin,
 She catch'd th'aforesaid *Presbyter* in her gyn;
 And with his wall-ey'd *Saintship* plaid the sinner,
 Who b'ing inspir'd by a Thanksgiving dinner,

Did

Did carnally her body know, to wit
 The crime of *Fornication* did commit:
 In the same *Ward*, and *Parish*, to his Honour,
 He at on clap got 3 great Boys upon her.
 All which for privacy were put to feeding,
 At *Bridewell* and *Pickhatch*, to learn good breeding.
 And she in recompence clap'd him so sore,
 With *Anglice French-P.O X*, it made him sore,
 And put his *Genitall's* in such a pickle,
 That all his Parish women did article,
 And out of him his *Benefices* twain,
 And into *Scotland* made him trot again.
 Wherefore (as lawfull 'twas) on this occasion,
 He spake the words layd in the *Declaration*,
 And this he *Justifies*, and judgment crave,
 If she this suit ought to maintain or have.

Replication.

And she the said *Priscilla* doth maintain her
 Said Action, against all that's said to stain her,
 And saith this *Court* nor will nor can forejudge her
 For ought that's pleaded by the foresaid *Roger*.
 But though by his said Plea, shee's forc'd to carry,
 Her suit against him, yet shee ought to carry;
 Protesting therefore shee's not such a liver,
 Nor of such Fame, as the said Plea doth give her
 Out for to be, but that she hath not vary'd,
 One jott in life from what shee hath declared.
 And on the said *Ralphs* part protesting farther,
 That of the *Kirke* he was a Godly Father,
 And of as pure and chaste a conversation,
 As any *Presbyter* within the Nation.
 And free from any lustfull act committing,
 With her, or any other deed unfitting.

For

For Replication saith, she was not knowing,
 Of the said *Ralph* but three years last foregoing.
 During which time, and till the said words spoke were,
 By the said *Roger* (that almost have broke her)
 She liv'd a Matrons life, chaste, grave, and thrifty,
 And came unto the Age of *three and fifty* ;
 And the said *Ralph* all the said time, by reason
 Of his much preaching in and out of season,
 And of his fasting long, and longer praying,
 And from his peoples not their duties paying,
 In the same *Ward* and *Parish*, grew so weakly,
 That of his life he did despair weekly :
 Which weakness had so very much out-worn him,
 That in his bed he was not able turn him ;
 Till that a learned *Doctor* of the *Colledge*
 Who of his sickness had full perfect knowledge,
 For gaining of his health did much exhort him,
 To wedde an honest *Matron* to comfort him.
 Which the said *Ralph* well liking, and well knowing,
 The honour to the said *Priscilla* owing,
 And thinking that delayes might greatly Worse him,
 With Zeal, did Court her for a wife to nurse him ;
 And She in pity to his weak *Condition*,
 Did condescend to be his shee *Physician*,
 And for their joyn't delires better carrying,
 A day by both appointed was for marrying.
 But on the suddain off the same was broken
 By the said *Roger's* words aforesaid spoken ;
 By meanes whereof, he the laid *Ralph*, endure
 Could not the said *Priscilla* for a Cure,
 But of relief his expectations failing,
 And his long sickness more and more prevailing,
 In Month *October*, day thereof that *first is*,
 In the *Lord* year that formerly express is,
 At the said *Ward*, the said *Ralph* much in trouble,
 Did dye, to's losse, possell'd of living double :

And left the said *Priscilla* to bemoan her,
 For that no other man would after own her ;
 And that she truly doth reply and don't lye,
 She prayes may be inquired by the *Country*.

Rejoynder.

And the aforesaid *Roger* saith the Plea
 By her the said *Priscilla* formerly
 Put in and pleaded by her Replication,
 In the aforesaid manner, form, and fashion,
 And the whole matter that's contained there
 Are not sufficient in the law, for her
 The said *Priscilla*, to maintain her foresaid
 Suit against him, and there need be no more said :
 Nor by the lawes of *England* is it fit,
 That he should make answer unto it,
 This he to averre is ready. Whereupon
 For want of better replication
 In this behalf, he doth a judgment pray,
 And that she from having her action may
 Be barr'd, for this against him ; And for
 The causes why he doth in Law demurre
 Upon that replication, he the said
Roger according to the Statute made,
 And in such case provided, doth declare
 And shew to th' Court of Upper Bench that's here.
 These causes following, to wit, that this
 Said Replication insufficient is,
 Negative, pregnant, and uncertain, rude,
 Double, wants forme, and does not conclude
 Rightly, according to the legal way.

Joyning in demurrer.

And she the said *Priscilla* here doth say

That

That the said *Plea* which by reply has bin
 Pleased by her, and what's contain'd therein
 In point of *Law*, good, and sufficient be,
 Her suit against him to maintain, And she
 That *Plea* and matter, pleaded as above,
 Is ready here both to maintain and prove,
 As this *Court* shall consider, and think fit,
 And 'cause he does not answer it, nor yet
 Deny that *Replication* any way,
 The said *Priscilla* (as before) doth pray
 Judgment, and damages, to be judg'd to her,
 For all this injury which he did to her.
 But cause this *Court* here not advised is
 Of giving judgment of the premisses,
 A day's giv'n to both parties to appear
 I'th' Upper *Bench*, before the *Keepers* here
 At *Westminster*, till Munday after eight
 Days of *St. Hillary*, for the receipt,
 And hearing of their Judgment upon it,
 For that the *Court* is not advis'd as yet.

F S. N. I.

